

SUPREME COURT OF THE STATE OF OREGON

Hunnicutt v. Myers

333 Or. 508 (2002) · No. SC S48998 · Decided March 14, 2002

SUMMARY

The Oregon Supreme Court reviewed a challenge to the Attorney General's certified ballot title for Initiative Petition 116 (2002). The court rejected the petitioners' arguments and certified a ballot title concerning constitutional compensation rights for government takings and deletion of text added by a 2000 measure.

CASE DETAILS

COURT	Supreme Court of the State of Oregon
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Oregon
DECIDED	March 14, 2002
DOCKET	SC S48998
DISPOSITION	approved
PROCEDURAL POSTURE	Petitioners sought review of the Attorney General's certified ballot title for Initiative Petition 116 (2002).
STANDARD OF REVIEW	The court reviews a certified ballot title to determine whether it substantially complies with ORS 250.035(2), under the standard set out in ORS 250.085(5).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	David J. Hunnicutt, Lawrence B. George v. Hardy Myers, Attorney General, State of Oregon

TOPICS

- election law
- election administration
- appellate procedure
- takings clause
- constitutional law

PRACTICE AREAS

- election law
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Attorney General's certified ballot title substantially complied with ORS 250.035(2).
2. Whether the certified ballot title required correction of a typographical error using the word "as" instead of "at."

HOLDINGS

1. The Attorney General's certified ballot title substantially complied with ORS 250.035(2), and petitioners' challenges were not well taken.
2. The court corrected the certified ballot title's apparent typographical use of "as" to "at."

KEY QUOTATIONS

"We review the Attorney General's certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2)."

"Accordingly, we certify to the Secretary of State the following ballot title for the proposed measure:"

FACTUAL BACKGROUND

The Secretary of State denominated the proposed measure Initiative Petition 116 (2002). The measure would delete text adopted in a 2000 measure concerning compensation when government regulation reduces property value and would ensure that Oregon's state constitutional compensation right is at least as extensive as the federal right. Petitioners challenged various aspects of the Attorney General's certified ballot title.

PROCEDURAL HISTORY

The Attorney General certified a ballot title for a proposed Oregon initiative concerning compensation for governmental takings and property-value reductions. Petitioners challenged aspects of that certified title directly in the Oregon Supreme Court, which reviewed the title and certified a modified version.

DISPOSITION

approved

OPINION

PER CURIAM.

Filed: March 14, 2002 IN THE SUPREME COURT OF THE STATE OF OREGON DAVID J. HUNNICUTT and LAWRENCE B. GEORGE, Petitioners, v. HARDY MYERS, Attorney General, State of Oregon, Respondent, and RANDY TUCKER, Intervenor. (SC S48998) En Banc On petition to review ballot title. Argued and submitted January 15, 2002. David J. Hunnicutt, Tigard, argued the cause and filed the petition for himself and petitioner George.

Janet A. Metcalf, Assistant Attorney General, Salem, argued the cause and filed the answering memorandum for respondent. With her on the answering memorandum were Hardy Myers,

Attorney General, and Michael D. Reynolds, Solicitor General. Randy Tucker, Portland, filed the memorandum for himself as intervenor. PER CURIAM Ballot title certified. PER CURIAM In this ballot title review proceeding, petitioners challenge various aspects of the Attorney General's certified ballot title for a proposed initiative measure, which the Secretary of State has denominated as Initiative Petition 116 (2002).

We review the Attorney General's certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2). See ORS 250.085(5) (setting out standard of review). We have considered petitioners' arguments and conclude that they are not well taken.

Accordingly, we certify to the Secretary of State the following ballot title for the proposed measure: AMENDS CONSTITUTION: DELETES TEXT AMENDING COMPENSATION RIGHT FOR GOVERNMENT TAKING; ENSURES STATE RIGHT NOT LESS THAN FEDERAL RESULT OF "YES" VOTE: "Yes" vote deletes text of 2000 measure providing for compensation when government regulation reduces property value, ensures state compensation right at (1) least same as federal.

RESULT OF "NO" VOTE: "No" vote rejects deleting text of 2000 measure providing for payment of compensation when government regulation reduces property value; retains preexisting right to just compensation. SUMMARY: Amends Constitution. Ensures that state constitutional right to payment of just compensation when government takes private property will provide at least same rights guaranteed by federal constitution.

Also deletes text of 2000 measure amending state constitutional right. Before 2000 election, state constitution provided for payment of just compensation when government takes private property for public use, but payment was not required when property value was only reduced.

In 2000, voters voted on measure that, with some exceptions, generally expanded property owner's right to compensation by providing for payment when state, local government regulation reduces property value. 2000 measure has been challenged on constitutional grounds. When this ballot title was prepared, that challenge had not been resolved. This proposal would delete text of the 2000 measure.

Ballot title certified. 1. In an apparent typographical error, the certified ballot title uses the word "as." We have changed that word to "at." Return to previous location.